

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

JEFFREY E. EBERLE,	:	
	:	NO. 1:03-CV-00644
Petitioner,	:	
	:	
	:	<b>ORDER</b>
v.	:	
	:	
	:	
JAMES HAVILAND,	:	
	:	
Respondent.	:	

On September 15, 2003, the Court received Petitioner Jeffrey E. Eberle's Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (doc. 1). Respondent James Haviland filed a Return of Writ on November 14, 2003 (doc. 3), and the Court received Petitioner's Traverse on November 14, 2003 (doc. 6). Ultimately, the assigned Magistrate Judge issued a Report and Recommendation on December 14, 2005, recommending that the Petition be dismissed, that no certificate of appealability should issue, and that the Court should deny Wilburn leave to proceed in forma pauperis on appeal as an appeal of the Order would not be taken in good faith (doc. 8).

Petitioner was served with the Report and Recommendation and was therefore afforded proper notice of the Magistrate Judge's Report and Recommendation required by 28 U.S.C. § 636(b)(1)(C), including that failure to file timely objections to the Report and Recommendation would result in a waiver of further appeal. See

United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981).  
Petitioner has failed to file any objections thereto within the ten days provided for by Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C). Pursuant to 28 U.S.C. §636(b), the Court has reviewed the Report and Recommendation de novo, finding it both thoughtful and proper.

Having reviewed that Magistrate Judge's Report and Recommendation, the Court finds it to be well-reasoned and thorough. Accordingly, the Magistrate Judge's Report and Recommendation (doc. 8) is hereby ADOPTED IN ITS ENTIRETY. Petitioner's Petition for Writ of Habeas Corpus (doc. 1) is DISMISSED WITH PREJUDICE. Issuance of a certificate of appealability of this Order pursuant to 28 U.S.C. § 2253(c) is DENIED. The Court hereby CERTIFIES pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order may not be taken in good faith; leave to proceed in forma pauperis on appeal is therefore DENIED.

SO ORDERED.

Dated: January 10, 2006

/s/ S. Arthur Spiegel  
S. Arthur Spiegel  
United States Senior District Judge